



# **CITY COUNCIL AGENDA REPORT**

MEETING DATE: MARCH 3, 2009

ITEM NUMBER:

**SUBJECT: ORDINANCE 09-02 AMENDING REASONABLE ACCOMMODATION PROCEDURES  
CITYWIDE**

**DATE: FEBRUARY 19, 2009**

**FROM: DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: MINOO ASHABI, AIA, SENIOR PLANNER  
DONALD D. LAMM, AICP, DIRECTOR**

**FOR FURTHER INFORMATION CONTACT: MINOO ASHABI, SENIOR PLANNER  
(714) 754-5610**

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## **RECOMMENDATION:**

Give second reading to Ordinance 09-02 that amends the Zoning Code for procedures related to application for reasonable accommodation.

## **ANALYSIS:**

On February 3, 2009, City Council gave first reading to the attached ordinance (5-0). The ordinance will modify the City's zoning code procedure for considering "reasonable accommodation" requests in conjunction with housing for disabled.

MINOO ASHABI, AIA  
Senior Planner

DONALD D. LAMM, AICP  
Deputy City Mgr. – Dev. Svs. Director

**DISTRIBUTION:** City Manager  
Asst. City Manager  
City Attorney  
Public Services Director  
City Clerk (2)  
Staff (4)  
File (2)

**ATTACHMENT: 1 Ordinance 09-02**

**ATTACHMENT 1**

**ORDINANCE 09-02**

**ORDINANCE NO. 09-2**

**AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-08-004, WHICH AMENDS TITLE 13 OF THE COSTA MESA MUNICIPAL CODE MODIFYING PROCEDURES FOR APPLICATIONS RELATED TO REASONABLE ACCOMMODATION**

**THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1: CODE AMENDMENT.** Title 13 of the Costa Mesa Municipal Code is hereby amended as follows:

- a. Amend Chapter IX, Section 13-200.61, by including the following:

**Sec. 13-200.60. PURPOSE.**

It is the City's policy to provide reasonable accommodation in accordance with federal and state Fair Housing Acts (42 USC § 3600 et seq. and Government Code § 12900 et seq.) for persons with disabilities seeking fair access to housing in the application of the City's zoning laws. The term "disability(ies)" as used in this article shall have the same meaning as the terms "disability" and "handicapped" as defined in the federal and state Fair Housing Acts. The purpose of this article is to establish the procedure by which a person may request reasonable accommodation, and how the request is to be processed.

**Sec. 13-200.61. APPLICABILITY.**

Any person seeking approval to construct and/or modify residential housing for person(s) with disabilities, and/or operate a residential care facility, residential services facility, or referral facility which will substantially serve persons with disabilities may apply for a reasonable accommodation to obtain relief from a Zoning Code provision, regulation, policy, or condition which causes a barrier to equal opportunity for housing. The application for reasonable accommodation shall be considered as a Minor Modification.

**SEC. 13-200.62. REASONABLE ACCOMMODATION PROCEDURE.**

(a) Application required. A Minor Modification application for reasonable accommodation shall be filed and processed with the planning division pursuant to Chapter III Planning Applications. The application shall include the additional information and be subject to the determinant factors required by this section.

(b) Submittal requirements. The application shall be made on the forms provided by the planning division, and shall include the following information:

(1) The Zoning Code provision, regulation, policy, or condition from which accommodation is being requested;

(2) The basis for the claim that the individuals are considered disabled under the Fair Housing Acts, and why the accommodation is necessary to provide equal opportunity for housing and to make the specific housing available to the individuals; and

(3) Any other information that the development services director reasonably determines is necessary for evaluating the request for reasonable accommodation.

(c) Fees. No application fee is required.

(d) Grounds for reasonable accommodation. The following factors shall be considered in determining whether to grant a reasonable accommodation:

- (1) Special needs created by the disability;
- (2) Potential benefit that can be accomplished by the requested modification;
- (3) Potential impact on properties within the vicinity;
- (4) Physical attributes of the property and structures;
- (5) Alternative accommodations that may provide an equivalent level of benefit;
- (6) In the case of a determination involving a single family dwelling, whether the residents would constitute a single housekeeping unit;
- (7) Whether the requested accommodation would impose an undue financial or administrative burden on the city;
- (8) Whether the requested accommodation would require a fundamental alteration in the nature of a city program; and
- (9) Whether granting the request would be consistent with the city's General Plan.
- (10) Property will be used by an individual with disability protected under fair housing laws.

**SECTION 2: ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 9b) (30 (general rule) of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility that the proposed amendment to the Zoning Code will have a significant effect on the environment..

**SECTION 3: INCONSISTENCIES.** Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**SECTION 4: SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 5: PUBLICATION.** This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2009.**

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ALLAN R. MANSOOR  
Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk of the City of Costa Mesa

\_\_\_\_\_  
City Attorney

